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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial and second periodic reports of States parties

KENYA*

* All tables included in this report have been extracted from the Economic survey 1988 prepared by the Central Bureau of Statistics, Ministry of Planning and National Development.

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BACKGROUND

1. The hosting of the UN Decade for Women Conference in Nairobi underscored the Kenya Government's commitment to the advancement of women. The conference served to spotlight Kenya's record in this field and to open it to international scrutiny. With its ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. This brief report reviews the measures which have been implemented in furtherance of the obligations under the Convention.

2. What is the status of international law in the legal system of Kenya? In the common law doctrine operational in Kenya, international law does not affect the municipal law of the country unless parliament has specifically enacted or in some other legislative way incorporated it as the law of Kenya. Under this general doctrine, the Convention must be given effect through legislative, judicial or administrative measures. In this respect, it is to be noted that there has been no deliberate or comprehensive intervention by the National Assembly on the Convention. This fact may be explained in part by the fact that many laws of Kenya are already in compliance with the Convention. Be that as it may, considerable work remains to be done to ensure full conformity with the Convention. Several policy initiatives augur well for the future in this regard.

3. The first initiative was the establishment of the Law Reform Commission in 1982 by the Government. The Commission is mandated to inter alia review all the law of Kenya to ensure its systematic development and reform. In discharging its functions, the Commission received proposals on reform from interested parties. The Commission has exhibited tremendous receptivity on matters relating to the advancement of women. It promises to be the single most important institution mechanism for the implementation of the Convention.

4. The second development was the affiliation of the umbrella women's organization, Maendeleo Ya Wanawake to the ruling party KANU - MAENDELEO YA WANAMAKE ORGANIZATION (KANU - MYWO for short) has its history dating back from the colonial era. In the 1950's African women joined this organization with the desire to improve the welfare and living conditions of their families. The year 1961 saw the election of the first African President of this organization.

5. Since independence this organization has grown from strength to strength. In, 1986, His Excellency the President directed its merger into the ruling Party KANU to improve it's efficiency and to influence on various issues as it affects the majority of the women.

6. The main objective of KANU - MYWO is "To improve economic social and political status of the women of Kenya by uplifting the standard of living of rural members communities to the level where they can help themselves as a means to enhance their integral development and thus develop Kenya". To achieve this, the organization has with both financial and technical assistance from the Government, initiated various programmes involving women groups at the District or locational levels. The present programmes include:

- Income generating development projects
- Women and energy project
- Maternal child health and family planning programmes
- Breast-feeding in Kenya
- Nutrition
- Adult literacy

7. KANU is the sole political party and initiates and evaluates development policies in the country. In its 1988-191 manifesto, it states that it:

> "... recognises the continued role of women as a backbone of the national economy, particularly in agricultural production. Specifically impressive has been the women's predilection and efficiency in organizing themselves into self-help groups. It is the intention of KANU that these groups be turned into an irresistible dynamic force for national growth".

8. The affiliation of Maendeleo Ya Wanawake to KANU has opened an important interface with the engine of national development policy formulation. Properly and skillfully utilized, measures for the advancement of women envisaged in the Convention stand a better chance for realization than hitherto.

9. A final but no less significant initiative has been the decentralization of development planning and administration known as the District focus of Planning for Rural Development implemented in 1985 by the Government. Under this strategy, decision-making, priority-setting and resources allocation and the implementation and evaluation of development projects is to be progressively decentralized to make the district the centre for development. The major unit coordinator of this strategy is the District Development Committee. The Government has established District Women Development Committees whose functions include identification or project priorities, co-ordination and harmonization of women activities in the district, advising the DDC on women projects and monitoring women's projects and programmes. This new initiative has opened yet another interface with policy-making for women at the local level which is already showing promising results for the advancement of women.

10. Taken together, the work of the Law Reform Commission, the affiliation of Maendeleo Ya Wanawake to KANU and the establishment of District Women Development Committees are far reaching legislative, political and administrative developments which promise to be institutionalized mechanism for an on-going and dynamic implementation of the measures provided for in the Convention. This fact may be much more significant for the advancement of women than any single sectorial or ad hoc legislative steps. It is nevertheless important to review specific areas of the Convention.

ARTICLE 1 AND ARTICLE 2

11. The definition of discrimination in the laws of Kenya does not as yet cover all aspects envisaged by the Convention.

12. The Constitution defines discrimination in a matter which may allow discrimination against women in that sex is explicitly omitted:

> " 'discriminatory' means affording different treatment to different persons attributed wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connection, political opinion, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description".

13. It is of particular significance here that the sections expressly exempted from this discriminatory legislation clause cover among others adoption, marriage, divorce and devolution of property on death. However, this must be seen in context since the Kenyan society is composed of various ethnic groups with different customs and practices.

14. The enactment and coming into operation of the Law of Succession Act in July 1981 has been a major step towards equality as envisaged by the convention.

15. It provides a uniform code as far as devolution of property on death is concerned and gives both men and women equal rights to inherit, own and dispose of property.

16. In practice, the Government has resolutely and repeated adhered to the principle of equality of men and women. To this end, H.E. The President has pursued an aggressive policy of hiring women to senior public service positions and as heads of government corporations. Thus in the period under review, the first woman Permanent Secretary was appointed.

ARTICLE 3

17. In 1975 the Kenya Government, in recognition of the contribution of women in the development process established the Women's Bureau as a division in the Department of Social Services of the Ministry of Culture and Social Services with the broad objective of ensuring equality of opportunity for women in the development process. Further, it was also seen as a vehicle for ensuring continuity in the follow-up and implementation of the World Plan of Action for the integration of women in development which came out of the United Nations, Conference on International Women's Year held in Mexico City 1975.

18. The Bureau's role is that of a coordinator of all women's programmes in the country which seek to uplift the status of women and increase their participation in the national development process.

19. The constitution provides for complete equality in the protection of human rights and fundamental freedoms in its Bill of Rights.

ARTICLE 4

20. There have been no affirmative measures to accelerate de facto equality undertaken by the Government.

ARTICLE 5

21. Great effort has gone into overhauling the educational system with the view to ensuring equality by modifying the social and cultural patterns of conduct of men and women. Of great significance is the new syllabus of the 8-4-4 system of education implemented in 1987 which has substantially done away with the stereotyped roles for men and women.

ARTICLE 6

22. Prostitution is illegal in this country though its generally thriving in urban areas mainly due to the fast urban development and high unemployment rates. This is also due to the fact that even when it is enforced more often than not, its only enforced against the women.

23. Section 147 of the penal code deals extensively with procurement but the offences under this section are only classified as misdemeanors, i.e. carrying a maximum sentence of only three years. The penal code also imposes other sanctions for offences related to prostitution but again the punishments proscribed do not really match the crime and may not serve as a deterrent.

ARTICLE 7

24. The constitution guarantees the right of every adult Kenyan, male or female to vote and to be eligible for election to all publicly elected bodies, subject to the qualifications for each post, applicable to one and all.

25. Women are actively involved in the political party KANU and in fact make up for about 50% of its membership. The KANU constitution has made specific provisions for the involvement of women in its leadership. Section 4(g) (II)states that, "at the sub branch General meeting the Location/Ward Committees shall be represented by 20 delegates 5 of whom shall be women and 5 youths".

26. However, despite their intensive involvement in the election process, few women seek elective office due to the socio cultural and attitudinal prejudices prevailing in society. For example, the largest number of women who have stood for parliament was eleven in 1974, when five were elected. It is surprising to note that the number has decreased over the years to ten (10) in 1979 with 3 elected, seven (7) in 1983 with one elected and only four (4) in 1988 with two (2) elected.

27. In the previous development plan (1984-1988) the theme of which is "Mobilization of Domestic Resources for Equitable Distribution", particular emphasis has been laid on the participation at the District level on planning, implementation and evaluation of development activities. This has led to the institution of the District Focus for Rural Development policy which is implemented through the District Development Committee (DDCs). Women are adequately represented at these committees.

28. The Kenya Government encourages and promotes the activities of women in Non-governmental organizations, professional associations, co-operatives, religious organizations and specific purpose organizations. At a seminar recently held at the Kenyatta International Conference Centre (KICC) by the Kenya Medical Women's association, H.E. The President while officially opening it commended the contribution of the organization to the welfare of the society.

ARTICLE 8

29. Since 1975 increasing numbers of women have joined the Ministry of Foreign affairs and the Government in recognition of their role has appointed quite a number to the diplomatic service. At present there are three women ambassadors. The deputy chief of protocol is a lady. Kenyan delegations to international forums in which Kenya is actively involved such as the organization of African Unity (OAU), the Commonwealth and the United Nations among other usually include women.

ARTICLE 9

30. The laws of Kenya relating to citizenship and nationality are not yet in conformity with the convention as far as the nationality of the children is concerned. Acquisition of citizenship by birth is determined the Nationality of the father where the parents are legally married and only in cases of illegitimate children is the nationality of the mother considered.

31. However, though the constitution forbids the holding of dual nationality an exception is made in the case of marriage to a citizen of another country. This prevents statelessness of the person so concerned.

ARTICLE 10

32. The Kenya Government guarantees the right of basic education for every child in the Republic. This commitment has been apparent not only in its major policy pronouncements but also in practise. Career and vocational guidance is available equally to girls and boys. Most schools have career masters available for both boys girls.

33. However, at the secondary level, girls schools still offer predominantly arts subjects and this has serious consequences for girls future careers and training. The result is that professions like engineering, medicine, architecture and archeology among others continue to be male dominated.

34. In all schools, both girls and boys have access to the same curriculum, the same examination, teaching staff of the same standard and although the quality of the school premises and equipment may differ from school to school the determinant factor here is the socio economic conditions of the area where the school is situated, rather than sex.

35. Enrollment of girls at the primary level is just slightly lower than the boys.

36. See Table I below: For the last five (5) years the sex ratio of boys per girls enrolled in primary schools has remained constantly at 107:100

Table I: PRIMARY SCHOOL ENROLLMENT BY STANDARD, 1984-1987

	1984		1985		1986		1987*	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
Standard 1	447.2	417.4	436.5	412.1	473.0	439.0	476.0	442.3
Standard 2	366.1	340.9	363.1	338.1	372.8	346.4	400.2	373.6
Standard 3	339.3	319.1	332.5	312.9	337.6	318.3	351.4	326.9
Standard 4	316.8	308.6	314.9	306.4	319.0	306.5	328.0	313.5
Standard 5	282.5	274.6	283.5	276.7	290.2	282.3	295.8	290.2
Standard 6	267.2	247.6	260.9	247.2	269.6	258.2	273.3	267.3
Standard 7	250.2	202.8	242.5	215.0	255.3	230.4	271.5	253.2
Standard 8	--	--	201.0	159.1	195.1	149.8	207.8	160.4
TOTAL	2269.3	2111.0	2434.9	2267.5	2512.6	2330.9	2604.0	2427.4

* Provisional

37. However, this trend is not maintained at the secondary level. For example, in 1987 girls constituted only 41% of the total secondary school enrollment. This is due to a variety of reasons including the fewer number of high schools for girls and the high rate of adolescent pregnancies. While the former has been rectified to a satisfactory level, the latter is still a formidable obstacle.

38. A notable effort has been made in the up-grading and expansion of girls schools under His Excellency the President's personal supervision. Also of considerable interest has been the implementation of the 8-4-4 education system which does away with traditional sex stereotyping and incorporates family life education. School textbooks are being revised to avoid reflecting the inferior role of women.

39. The 8-4-4 curriculum also includes subjects which are aimed at reducing the high rate of adolescent pregnancies by making the pupils aware of the functioning of their reproductive system and restoring morality to society. These include religious education, social education, ethics, population education and career guidance.

40. The Government is also seriously concerned with the issue of child marriages and quite a number of people have been prosecuted for interfering with the education of these girls.

41. The state does not have specific programmes for girls who have dropped out of school but there are private colleges and educational institutions offering courses commensurate with the level of formal education attained. There are also a few charitable organizations which offer specific programmes for girls who drop out of school due to pregnancy. A good example is the Eldevale Homes run by Catholic Sisters. The constraint here is finance rather than discrimination as there are no specific programmes for male drop-outs either.

42. Enrollment of girls in the technical, vocational and institutions of higher learning has increased over the years and especially at the University women have increasingly entered faculties previously dominated by men. The University of Nairobi has also started a Diploma Course in Advanced Nursing which is predominantly a women's profession.

43. Women constitute about 20% of the student population at the University of Nairobi and 40% at Kenyatta University. For all universities, the proportion of women stands at approximately 30%. Tables II, III and IV below show student enrollment by Faculty year and sex for Nairobi, Kenyatta and Moi Universities respectively.

Table II: UNIVERSITY OF NAIROBI STUDENTS BY FACULTY AND SEX, 1986/87 - 1987/88

	1986			1987*		
Course/Faculty	Male	Female	Total	Male	Female	Total
Undergraduate Courses						
Agriculture*	445	112	557	696	166	862
Architecture and Design	176	28	204	258	48	306
Building Economics and Land Economics	101	39	140	173	50	223
Art	925	409	1,334	1,776	775	2,551
Commerce	371	126	497	551	172	723
Engineering	542	20	562	801	23	824
Law	226	154	380	289	214	503
Medicine	458	118	576	555	143	698
Science	651	94	745	1,002	190	1,192
Veterinary Medicine	269	47	316	371	56	427
Dental Surgery	42	36	78	88	54	142
Pharmacy	98	19	117	150	26	176
TOTAL	4,304	1,202	5,506	6,710	1,917	8,627
Of which Kenya students	4,256	1,163	5,419	6,628	1,877	8,505
Diploma Courses** Total	23	39	62	26	61	87
Of which Kenya students	23	36	59	25	58	83

* Includes courses on Food Science and Technology and Range Management.
** Diploma courses were offered in Advanced Nursing and Adult Studies.

Table II (Contd.)

Postgraduate Courses						
Agriculture	114	40	154	1,113	54	1,167
Architecture and Design	53	11	64	55	22	77
Art	211	83	294	166	86	252
Commerce	30	10	40	24	17	41
Education	20	10	30	--	--	--
Engineering	33	2	35	47	--	47
Law	6	2	8	6	1	7
Medicine	158	56	214	157	37	194
Science	215	38	253	185	27	212
Veterinary Medicine	37	9	46	35	7	42
School of Journalism	15	10	25	13	9	22
Institute of Computer Science	16	1	17	9	5	14
Institute of African Studies	7	5	12	7	3	10
Institute of Population Studies	--	--	--	30	12	42
TOTAL	915	277	1,192	1,847	280	2,127
Of which Kenya Students	785	241	1,026	1,579	241	1,820
Total enrollment-						
. All Kenya students	5,064	1,440	6,504	8,232	2,176	10,408
. Students from other countries	178	78	256	351	82	433
TOTAL	5,242	1,518	6,760	8,583	2,258	10,841

Table III: MOI UNIVERSITY STUDENTS BY COURSE AND SEX, 1985/86 - 1987/88

	1985/86		1986/87		1987/88	
Department	Male	Female	Male	Female	Male	Female
Forestry	87	11	96	15	132	22
Wildlife Management	11	3	27	4	64	7
Wood Science and Technology	--	--	21	2	50	8
Production and Technology	--	--	13	1	58	2
Electrical and Communication Technology	--	--	24	--	70	3
Science	--	--	23	4	92	9
Education	--	--	--	--	321	132
Total	98	14	204	26	787	183

Table IV: KENYATTA UNIVERSITY STUDENTS BY COURSE AND SEX, 1986/87 - 1987/88

	1986/87			1987/88		
Course/Faculty	Male	Female	Total	Male	Female	Total
B. Ed. (Arts)	655	866	1521	1444	1562	3006
B. Ed. (Science)	615	220	835	751	246	997
B.A. (Fine Art)	8	8	16	11	18	29
B. Ed (Home Economics)	20	126	146	25	232	257
B.A. (Music)	4	12	16	--	--	--
B.A.	80	36	116	260	150	410
B. Sc.	63	13	76	228	39	267
Postgraduate*	155	55	210	116	53	169
TOTAL	1636	1381	3017	2835	2300	5135

* Include students pursuing Post Graduate Diploma in Education

44. Various agricultural and technical institutions have also enrolled increasing numbers of women over the years. These include the Water Institute under the Ministry of Water Development, Kenya Institute of Mass Communication.

45. Equal opportunities to benefit from scholarships and other study grants are offered equally to both men and women although particular reference to the age and marital status may preclude women who may choose to raise a family first and then continue with their education. However, a post literacy continuing education programme which has been launched at the Institute of Adult Studies (I.A.S.) provide further avenues for advancement.

46. Following a Presidential directive in 1979 a massive national literacy programme was started and it is not surprising to note that adult literacy classes are predominantly female. Table V gives details of enrollment in adult literacy classes by sex and year.

Table V: ADULT EDUCATION ENROLLMENT BY SEX, 1983-1987

Year	Males	Females	Total	Percentage of female Enrollment
1983	82,356	261,532	343,888	76.0
1984	48,660	170,664	219,324	78.0
1985	41,901	142,528	184,429	77.0
1986	49,910	172,232	222,142	78.0
1987	38,580	120,546	159,126	76.0

47. However, women's workload continues to be the biggest constraint in the literacy programme. Various non-governmental organizations are supplementing the government's efforts in this field.

48. Women and girls participate freely in sports and physical education at all levels of education.

ARTICLE 11

49. The Employment Act - Chapter 226 Laws of Kenya provides that every employee, male or female shall be entitled to leave with full pay, weekly rest day, adequate housing and medical attention. This is in addition to the normal requirements of the right to work, equal pay and benefits for equal work, right to promotion, training and job security and equal rights as far as social security is concerned.

50. Though job categories are dictated by qualifications, there are still more men in modern section employment. The percentage of women in total modern section employment was 12.2% in 1964 and this increased to 16.2% in 1976 and 21.2% in 1987. The reasons for this are varied but the major ones are the low number of girls making it to secondary school and the social cultural attitudes of the traditional myth that the man is the family's bread winner while the wife just looks after the homestead.

51. The Government of Kenya has taken positive steps in the hiring of women and in fact appointed some to very senior positions though the number is still small. Until recently, most women in civil service were being encouraged to work on contractual terms. This has had to effect of hampering the rise of women to senior positions in the sense that the erratic nature of the contractual period raises the question of continuity.

52. However, as staged in a Government Circular of May, 1989 all civil servants will now be engaged on permanent and pensionable terms upon successful completion of the probation period.

53. In civil service and indeed the private sector, training is carried out in terms of the office, not men or women. However, certain family obligations bar women from taking up certain training opportunities and this does little to enhance the chances of women being appointed to senior positions.

54. The employment Act, section 9 provides that:

> "Every employer shall at all times at his own expense provide reasonable accommodation for each of his employees either at or near to the place of employment, or shall pay to the employee such sufficient sum, as rent, in addition to his wages or salary as will enable such employee to obtain reasonable accommodation".

55. The civil service code of regulations qualifies this legal requirement in denying married women housing allowance except in a few specific instances. This constitutes unequal treatment between men and women.

56. Every employee in the formal sector is required to contribute to the National Social Security Fund (NSSF) with the employer contributing a similar amount. This applies to both men and women employees. The funds under this scheme can only be withdrawn on attaining the age of 50 (fifty) or on retirement. However, most of the women in this country are engaged in the informal sector where no benefits or schemes are practicable.

57. The National Hospital Insurance Fund (NHIF) is discriminatory in the sense that it does not allow a married woman to be a contributor except in the cases where she is the bread winner in the family.

58. The Government recognises the fact that employment of women in the formal sector requires a clear understanding of women's family and domestic roles. The Government has therefore provided support services for working women by allowing paid maternity leave (sixty (60) days in the civil service) house allowance for women who are not staying with their husbands, maternal freedom for unmarried women and equal opportunities for pre-service and in service training.

59. As yet, the Government has not taken any initiative towards the establishment of child care facilities. However, the need for these facilities has now been recognised and private individuals and organizations have already established some in the urban areas where the demand is likely to be high.

60. The Salvation Army and The Child Welfare Society have established institutions in Nairobi to train young girls who drop out of school in child care and housekeeping. These are then employed in the homes, thus supplementing the existing child care facilities.

ARTICLE 12

61. Access to health care facilities is available to both women and men. The Government's commitment to the promotion of women's health is symbolised in its hosting the International Save Motherhood Conference in 1987 at which it co-sponsored the resolution on Safe Motherhood Initiative adopted by World Health Assembly the same year. Ante-natal and post-natal clinics are being developed in every district in the country.

62. The Maternal Child Health and Family Planning programmes continue to be very successful particularly in the rural areas. This success is mainly due to the increasing number of trained personnel in this field with women playing a very significant role. For example, during the period of 1974 and 1984, the enrollment of women at the Medical Training Centre ranged between 33.7% and 53.1%.

63. The average life expectancy of women in Kenya has increased from 46 years in 1965 to 56 years in 1984. This dramatic improvement is largely due to improved nutrition, expanded education facilities, higher incomes and improved primary health care. The Government in conjunction with non-governmental organizations has embarked on an ambitious health care programme. This is particularly in the dissemination of materials and training facilities. Specific measures include the training and equipping of Mid-wives and Family Planning programmes. Circumcision of females has been discouraged and advertising of artificial baby foods has been banned to promote breast-feeding. The National Council for Population and Development set up in 1982 in the Office of the Vice-President and Ministry of Home Affairs continues to co-ordinate the activities of the Government and non-governmental organizations in this area.

64. Despite this acknowledged success of the Family Planning programme, there have been various shortcomings due to a variety of reasons. A contraceptive survey conducted by the Central Bureau of Statistics in 1984 revealed that contraceptive use in the rural areas was quite low as opposed to urban areas. For example, in 1984, 21% of all women living in urban areas were using contraceptives as opposed to only 14% in the rural areas. The determinant factors here is proper knowledge of the use of these modern methods.

65. However, even where there is awareness socio-cultural attitudes and prejudices hinder the widespread acceptance of such methods as sterilization both for men and women.

ARTICLE 13

66. Kenya has a system of family benefits which are paid through the tax system. Tax relief is available to both male and female single employees. However, with the change of status, a woman loses her relief. She is supposed to benefit through her husband. The number of children is also a factor as to how much relief one gets and even unmarried mothers are entitled to this benefit. The same criteria is applied to house allowance in the public sector.

67. The National Hospital Insurance Fund Act provides that a married woman whose income forms part of her husband's taxable income does not qualify as a contributor. Other Government subsidies such as owner occupied house allowance are not available to the married woman as of right.

68. Both men and women are guaranteed the de jure right to bank loans, mortgages and other forms of financial credit. In practice however, women find it difficult to secure credit either because they do not have the necessary collateral or in the case of a married woman, the consent of the husband will be required.

69. To alleviate this problem the Kenyan women set up the Kenya Women's Finance Trust in 1981 to provide loans to women without the security demanded by the financial institutions. The K.W.F.T. has run an effective revolving loan fund and a loan guarantee scheme which has assisted many small-scale grass-root women either as individuals or as groups.

70. Men and women equally have the right to participate in recreational activities, sports and all aspects of cultural life.

ARTICLE 14

71. Most of the rural women are not enlightened on their rights. There has been no national machinery specifically charged with ensuring exercise of women's rights although a project run by Women's Bureau in the Ministry of Culture and Social Services in collaboration with Public Law Institute, an NGO has undertaken a project under the Women's Right Awareness Project to educate women on their legal rights.

72. Rural women are fully represented on the District Development committees by a women leader. This ensures that women are represented in the District Development Planning. The contribution of rural women is taken account of in developing economic and agricultural policies.

73. The Government's major programme in improving the economic situation of rural women has been its support of women groups and their income generating activities. There has been a tremendous growth of registered groups from 4,300 in 1976 to 16,200 in 1985 and 25,000 in 1988. In 1987 Government Grants to these groups totalled KShs.2.6 million.

74. Its noted that the Kenya Government in collaboration with the NGO sectors is supporting technological innovation. An example is the development of fuel efficient stoves and water jars which have proved very popular with rural women. Those were developed by the Kenyatta University, the Kenya Centre For Appropriate Technology and the Ministry of Energy. Available statistics indicate that women's participation in co-operatives has increased dramatically in the period under review.

75. It is the Kenya Government policy that every home in the country should have easy access to water by the year 2000. The Ministry of Water Development in conjunction with non-governmental organizations, notably KWAHO, are evolving innovative rural water supply models which give rural communities a voice in the designing and management of water projects. This move will benefit women greatly as water is essential to the activities of a housewife or mother.

76. The farming community in the rural areas is mainly composed of women who now attend wide-ranging courses at the more than 30 Farmers Training Centres in the Districts. More women are being trained as extension workers and there are currently over 2,000 women technical staff in the field including Agricultural, Veterinary and Research Officers. In 1980, Egerton College enrolled 49 women to study for various courses and this number rose to 93 in 1982.

77. Accessibility to agricultural credit and loans to farmers has been made easier by the Government especially with the establishment of the Cooperative Bank of Kenya which provides credit facilities through local cooperative societies to rural families. However, the cooperative societies act stipulates that only plot holders qualify for the loan scheme. Therefore, most women are disqualified despite the fact that they are actually the ones who manage the shambas in the absence of their husbands.

78. The Agricultural Finance Corporation, (AFC) also gives seasonal credit to farmers but again on the same principles as the cooperative societies.

79. Majority of women in the rural areas are not aware of the Kenya Women's Finance Trust (KWFT) credit facilities and therefore do not make use of them. However, the Women's Bureau is taking steps towards creating this awareness.

80. In Kenya, traditionally, women do not as a rule, own land. However, the law of Succession Act Chapter 160 Laws of Kenya which came into full operation on 1st July, 1981 places men and women as heirs on the same footing. Even married women can now inherit immovable property from their fathers. Widows and widowers have equal rights, i.e. a life interest in the immovable property. However, it contains the discriminatory element that a widow's interest terminates upon her remarriage.

81. Women in the rural areas are mostly engaged in the farming sector and their income generating activities are market oriented. Social Security Schemes such as the National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF) are schemes solely for people in paid employment and hence rural women do not benefit from them.

ARTICLE 15

82. All are equal before the law. Both men and women have equal access to courts for any redress.

83. However, there is one important exception in Criminal Law, the operation of which is discriminatory. Section 19 of the Penal Code provides a special defence to a wife charged with any offence except murder and treason if she shows that the offence was committed in the presence of her husband and under his coercion. The assumption here is that the coercion cannot operate vice-versa.

84. The Law of Contract give women a legal capacity identical to that of men in entering and concluding contract as does the law of Succession Act in matter of administration of property.

85. The Law of domicile provides that at birth every person acquires the domicile of the father. Only if he is born illegitimate does he acquire that of the mother which changes if the mother married the father of the child. Even an adopted child acquires the domicile of the husband. A married woman acquires the domicile of the husband. The law however, allows a married woman to acquire an independent domicile of choice but this right is not extended to her children in marriage.

86. It is important to mention here that the law of domicile touches the very essence of how the life of a woman is shaped up. For example, a wife, in practice, cannot include her children on her passport unless express consent is given by the husband. Upon marriage she is subjected to the customary and personal laws governing her husband. Thus questions regarding burial rites, naming of the children, marriage ceremonies are all governed by the customary laws of the man. One may, therefore, assume that since she acquires the domicile of the husband then she is governed by the personal law of the husband. The situation is, however, complex than that as domicile concerns physical residence of a person and one may argue that the personal law of the husband should also change with his place of permanent residence. On burial rites individuals and organizations have asked for a Bill on Burial Rights and the Law Reform Commission is looking into it.

ARTICLE 16

87. Generally women have the same right to enter into marriage as men. Kenya, however, has various laws governing marriage and divorce based on the different major religions recognized in the country. This is one area where the administration does not strictly follow the letter of the law. For example, the Mohammedans Marriage and Divorce Registration Act allows the marriage of minors. Where a school age girl is forcibly married under this Act, the administration interferes on the ground that the minor should complete here education first. Under the said law however both parties must give consent to the marriage.

88. Should a woman elect to get married under African Customary Law then she has expressly given consent to a polygamous union. Divorce also depends on the form of marriage law the couple celebrated under generally both have equal responsibilities in its dissolution. As regards custody of children both have equal rights and the courts will decide in accordance with the interests of the children.

89. There are equal rights as provided for under the law regarding guardianship, wardship, trusteeship and adoption of children.

90. The right to choose a family name is not legally provided but the law does not interfere in this area either.

91. Women whether married or not have the right to choose a profession and an occupation. A woman may acquire or dispose of her property freely however the consent of the husband may be required; this may form an obstacle.

92. Marriage of children is forbidden and the administration takes all possible measures to prevent this occurring.

CONCLUSION

93. Article 24 provides that state parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognised in the present convention. The Kenyan law courts can only enforce the written law of the land and any other law that is not inconsistent with our written law or with the constitution. Section 3 of the constitution provides that:-

> "This Constitution is the Constitution of the Republic of Kenya and shall have the force of law throughout Kenya and, subject to section 47 (dealing with amendments) if any other law is inconsistent with this constitution, this constitution shall prevail and the other law shall, to the extent of the inconsistency be void".

94. Thus in a case involving a conflict between Kenya law on the one hand and principles or usages of international law on the other, our municipal court are bound by the Kenyan law. This is more so with the constitution which through its fundamental rights and freedoms prescribes the basis for the economic and social institutions of the country as well as influencing the emergency of economic and social institutions suitable for a non-discriminatory democratic society in Kenya.

95. However, although the provisions of the Convention have to be implemented by way of internal laws or administrative regulations in order to be enforced by the courts, nevertheless those fundamental rights and inalienable freedoms are already covered in our laws. Those which are in conflict with the Convention are few and minor but this does not mean that the Government and its people are complacent. Kenya is a changing society. Indeed it is a transitionary society where we have to marry our cultural traditional attitudes with those of the emerging modern world linked with all aspects of the so called development and modern civilization. As studies in developed nations indicate that not all aspects of development and advance technology are to the advantage stage of the human race, it is with this in mind that the Kenya legislature takes a cautious step towards legal Reform.